

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:02CV224

**LOCAL 2-1971 OF PACE INTERNATIONAL)
UNION; PAPER ALLIED-INDUSTRIAL,)
CHEMICAL & ENERGY WORKERS)
INTERNATIONAL UNION, on behalf of)
members and former member participants)
in pension plans sponsored by the)
Defendants; JOY M. O'DELL, RAYMON C.)
GALLOWAY, JAMES F. SUMNER,)
W. HARRISON WHITLOCK, HUEY W.)
HARRIS and GURLIE R. OWEN, on behalf)
of themselves and others similarly)
situated,)**

Plaintiffs,

vs.

**LANGDON M. COOPER, Trustee in)
Bankruptcy for RFS Ecusta, Inc., and RFS)
U.S., Inc.; RFS ECUSTA, INC.; PURICO)
(IOM), LTD.; RF & SON, INC.; NATHU)
PURI,)**

Defendants.

ORDER

THIS MATTER is before the Court on Plaintiffs' Supplemental Report Clarifying that All Parties Have Agreed on Damages Computation ("Supplemental Report"), filed July 7, 2006.

By Memorandum of Decision, filed March 31, 2006, the Court found Defendants were liable for violation of the Worker Adjustment and Retraining Notification (WARN) Act, 29 U.S.C. § 2101 *et seq.* The parties requested, and the Court allowed, a period of time for the parties to arrive at a determination as to the amount of damages due each individual employee rather than having the Court appoint a Special Master for such purpose.

Pursuant to the Supplemental Report, it appears the parties have reached agreement regarding the damages due each individual employee, as well as agreement on the prejudgment interest due thereon. Such amounts are shown in the “Puri Computation” attached as Exhibit A to Plaintiffs’ Report Regarding Agreement with Parties on Calculation of Compensation Due Each Individual Employee, filed with the Court on July 5, 2006. While the parties’ efforts to reach this agreement are appreciated, the Court is unable to confirm the agreement as the damages in this case because the computations submitted show two different numbers for each employee, both of which purport to represent the amount of damages due, as well as a separate column indicating the difference between the two

damage columns. No indication is made as to which column represents the amounts agreed to by all parties.

The Court will require the parties to file jointly a brief report clarifying which calculation column, "Gross Back Pay Plus Interest" or "Plaintiff's Calculation of Wages + P.J. Interest," represents the agreed-upon amounts. The report should also set forth, for purposes of clarification, the total aggregate amount to be awarded as back pay, the rate of prejudgment interest to be awarded thereon, and the total aggregate amount to be awarded as prejudgment interest. The parties shall file therewith a proposed Judgment finalizing the agreed-upon damage amounts to be awarded in this case.

The Court has received Defendants' Clarification to Plaintiffs' Report and Supplemental Report Regarding Agreement on Calculation of Compensation Due Each Individual Employee, filed July 13, 2006. The Defendants' Report states that the parties are still in the process of attempting to reach agreement regarding the attorneys' fees and costs to be awarded in the case. The parties shall also file with the clarification and proposed order a joint status report informing the Court of the progress

being made, if any, on these issues and a proposed deadline for such negotiations.

IT IS, THEREFORE, ORDERED that the parties file with the Court, on or before **JULY 31, 2006**, a joint report clarifying the damages agreed to by the parties.

IT IS FURTHER ORDERED that the parties file therewith a proposed Judgment finalizing the agreed-upon damage amounts to be awarded in the case.

IT IS FURTHER ORDERED that the parties file therewith a joint status report informing the Court of the progress being made on agreement as to the determination of attorneys' fees and costs to be awarded in the case and a proposed deadline for such negotiations.

Signed: July 14, 2006

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

